

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MEMORANDUM

This matter is before the Court on the motion of Taron Jose Mack to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. Movant's sole claim is that he is entitled to relief under the decision of the Supreme Court in *Johnson v. United States*, 135 S.Ct. 2551 (2015).

In *Johnson*, the Court held that the “residual clause” of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e)(2)(B)(ii), is unconstitutionally vague. The ACCA enhances the punishment for firearms offenses under 18 U.S.C. § 922(g) when the defendant has at least three prior convictions for a serious drug offense or a “violent felony.”

Movant pled guilty to possessing heroin with intent to distribute, in violation of 21 U.S.C. §841(a)(1) and possessing firearms in furtherance of a drug trafficking crime, in violation of 18 U.S.C. §924(c). Although he had prior convictions, he was not sentenced as an armed career criminal. Therefore, the holding in *Johnson* does not apply in this case and movant is not entitled to relief.

The Court finds that movant has failed to make a substantial showing of the denial of a constitutional right, which requires a demonstration "that jurists of

reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right." *Khaimov v. Crist*, 297 F.3d 783, 785 (8th Cir. 2002) (quotation omitted). Thus, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).

A separate Order will accompany this Memorandum.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 7th day of June, 2017.